HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6445 OF 1999.

Smt. Pramila Bhaulal Suryavanshi,
Age: 37 years, Occu: Teacher,
R/o: Phule Nagar, Behind ESI
Hospital, Vartak Nagar,
Thane. ..Petitioner.

Versus.

1. Deputy Municipal Commissioner,
Education (Head Quarters)
Municipal Corporation of Thane,
Thane.

2. Municipal Corporation of Thane,
Thane Mahanagar Paliak Bhavan,
Dr. Almeida Road, Chandan Wadi,
Panch Pakhadi, Thane.

3. Chairman & Member,
School Board Tribunal,
T.M.C., Thane.

4. Head Mistress,
Jidda Primary School for
Physically Handicapped,
Municipal Corporation of Thane,
Thane.

5. Lokshikshanadhikari,
Balwadi School,
Municipal Corporation of Thane,
Reti-Bunder, Mumbra,
Dist: Thane.

6. Smt. Vandana Mhatre,

7. Smt. Asha Domble,
8. Smt. Preeti Ghag,
9. Smt. Shubhada Sansare,
10.Smt. Pushpa Mesta,

All Balwadi Teachers transferred
from other Balwadi to Jidda
School for Physically Handicapped
Students, Municipal Corporation of
Thane, Thane.

11. State of Maharashtra
Through: Secretary, Education
& Human Development Deptt.,
Mantralaya, Mumbai. ..Respondents.

Shri. Sunil Dighe for the Petitioner- Absent.

Smt. Arti Mahajan i/b Shri. R.S.Apte for the respondent Nos. 1 & 2.

Smt. S.S.Bhende, AGP for the Respondent No.11-State.

CORAM: S.B.MHASE &
D.G.KARNIK, JJ.

DATE : JANUARY 13, 2006.

ORAL JUDGMENT (PER D.G.KARNIK,J.):

1. None present for the petitioner. Heard Smt. Arti Mahajan instructed by Shri. R.S.Apte for the respondent Nos. 1 & 2 and Smt. S.S.Bhendre, learned AGP for the State.

2. By this petition, the petitioner challenges the order dated 21st June 1999 transferring her from Jidda Primary School for Physically Handicapped at Jidda, Thane to Balwadi School at Reti-Bundar, Mumbra. The petitioner also challenges the further order dated 7th July 1999 rejecting her application for reconsideration and cancellation of her transfer and the further communication dated 21st August 1999.

3. The Petitioner possesses a graduate degree (M.A.) and also possesses a diploma in education (D.Ed.). By an order dated 27th July 1988 the

petitioner was appointed, initially on temporary basis for a probationary period of six months, to the post of teacher at Jidda School of Thane Municipal Corporation by the respondent No.1. By an order dated 16th March 1992, the petitioner was confirmed on the post of Balawadi teacher with effect from 5th August 1988. Obviously that order was erroneous, inasmuch as the petitioner was not appointed as a Balwadi teacher, but was appointed as a teacher. Therefore, by a subsequent corrigendum dated April 13, 1992, it was clarified that the petitioner was confirmed to the post of a teacher in stead of a Balwadi teacher. Copies of the aforesaid three letters are annexed as Exhibits-"D", "C" & "E" to the petition. By office order dated 21st June 1999, the first respondent issued general order of transfer of 69 Balwadi teachers. By the said office order the petitioner was also transferred from school at Jidda, Thane to a school at Reti-Bunder, Mumbra. It appears that the petitioner made a representation pointing out that she was a regular teacher in primary school and not a Balwadi teacher and, therefore, inclusion of her name in the general order of transfers of Balwadi teachers was erroneous. By a communication dated 7th August 1999, the petitioner's application for reviewing her order of transfer was rejected and another communication to same effect was also sent to the petitioner on 19th August 1999.

4. From the copies of the documents annexed to the petition, it is clear that the petitioner was initially appointed as a teacher and also confirmed as a teacher in the primary school; she was never appointed as a Balwadi teacher. Even though order dated March 16, 1992 erroneously mentioned that the petitioner was confirmed to the post of Balwadi teacher, that error was immediately corrected by the corrigendum dated April 16, 1999, by which it was clarified that the petitioner was confirmed as a "teacher" and not as "Balwadi teacher". In these circumstances, the petitioner cannot be regarded as Balwadi teacher. The petitioner therefore could not be transferred to a post of a Balwadi teacher, as was sought to be done by the office order. It is worthwhile to note that by an interim order dated 19th January 2000, the order of transfer was stayed by this Court and petitioner continues to be employed at her original posting.

5. In the circumstances, the petition succeeds. Rule is made absolute in terms prayer clause (a) with no order as to costs.

(D.G.KARNIK,J.) **(S.B.MHASE, J.)**